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Washington, Friday, June 21, 1940

## The President

### EXECUTIVE ORDER

#### AMENDMENT OF SUBDIVISION VIII, SCHEDULE A OF THE CIVIL SERVICE RULES

By virtue of the authority vested in me by the provisions of paragraph Eighth, subdivision SECOND, section 2 of the Civil Service Act (22 Stat. 404), it is ordered that Subdivision VIII of Schedule A of the Civil Service Rules be, and it is hereby, amended by adding thereto the following paragraph:

10. Positions in the field service of the Bureau of Fisheries concerned with scientific fishery investigations when filled by the appointment of students at colleges and universities of recognized standing: *Provided*, that substantial contributions to the investigations are made by such colleges or universities in money, services, or materials, or in the use of buildings, laboratories, equipment, or facilities, or otherwise. Such employments may be continued under this authority only so long as the appointee is a bona fide student at the particular college or university and receives academic credit toward a degree for the work which he is performing for the Bureau of Fisheries.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,  
June 19, 1940.

[No. 8449]

[F. R. Doc. 40-2521; Filed, June 20, 1940; 10:40 a. m.]

## Rules, Regulations, Orders

### TITLE 6—AGRICULTURAL CREDIT

#### CHAPTER I—FARM CREDIT ADMINISTRATION

[F.C.A. 181]

#### THE FEDERAL LAND BANK OF BERKELEY PARTIAL RELEASE FEES

Section 31.6 of Title 6, Code of Federal Regulations, is amended to read as follows:

§ 31.6 *Partial release fees.* Selling portion of farm; construction of highway across farm; selling water rights; removing trees or timber, gravel or buildings from land; easements for rights of way; oil, gas, or mineral subordinations, fee to accompany application:

Land Bank or joint Land Bank and Land Bank Commissioner loan if field inspection is made by national farm loan association.....	\$20.00
Land Bank or joint Land Bank and Land Bank Commissioner loan if no field inspection is made by national farm loan association.....	15.00
Release or partial release of chattel mortgage on Commissioner loan.....	15.00

On an application for the partial release or subordination of property covered by a direct Land Bank loan, a Land Bank Commissioner loan, or a Federal Farm Mortgage Corporation real estate sales contract, or a Federal Farm Mortgage Corporation purchase money mortgage, the fee will be \$15.00.

On an application for the partial release or subordination of property covered by a Land Bank loan endorsed by an association whose books are being held at the Bank, or by a liquidated association, the fee will be \$15.00.

When a Land Bank Commissioner borrower requests the release or partial release of a chattel mortgage, a \$15.00 fee will be charged. Whenever an application for partial release or subordination is filed simultaneously with an application for an additional or refunding loan, both the regular application fee and the partial release or subordination fee shall be collected. If no appraisal is made by the Bank, the full \$15.00 fee is to be returned to the borrower.

(Sec. 13 "Ninth", 39 Stat. 372, 12 U.S.C. 781 "Ninth"; sec. 32, 48 Stat. 48, as amended, 12 U.S.C. 1016; sec. 1, 48 Stat. 344, 12 U.S.C. 1020; sec. 2, 48 Stat. 345, 12 U.S.C. 1020a) [Res. Ex. Com., March 21, 1940]

[SEAL]

FEDERAL LAND BANK  
OF BERKELEY,

By CHAS. PARKER,  
President.

[F. R. Doc. 40-2522; Filed, June 20, 1940; 11:21 a. m.]

## CONTENTS

### THE PRESIDENT

Executive Order:	Page
Civil Service Rules, amendment of Subdivision VIII, Schedule A (field service, Bureau of Fisheries).....	2315

### RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:	
Farm Credit Administration:	
Federal Land Bank of Berkeley:	
Insurance fire loss fees.....	2316
Partial release fees.....	2315
Reamortization fees.....	2316
TITLE 9—ANIMALS AND ANIMAL PRODUCTS:	
Bureau of Animal Industry:	
Counties placed in modified tuberculosis-free accredited areas.....	2316
TITLE 10—ARMY: WAR DEPARTMENT:	
Procurement and disposal of equipment and supplies:	
Procurement of military supplies and animals; invitations for bids.....	2317
TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF:	
Veterans' Administration:	
Accrued amounts due and unpaid at death.....	2322
Loans and settlements on adjusted service certificates.....	2322
TITLE 47—TELECOMMUNICATION:	
Federal Communications Commission:	
Broadcast service other than standard; television stations.....	2323
Prior rules repealed.....	2324

### NOTICES

Department of Labor:	
Wage and Hour Division:	
Hearings:	
Apparel industry, employment of learners.....	2326
(Continued on next page)	





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### CONTENTS—Continued

Department of Labor—Continued.	
Wage and Hour Division—Con.	
Hearings—Continued.	Page
Banking, brokerage, etc., employees, definition of terms	2325
Fresh fruits or vegetables, packing, canning, etc.; seasonal industry exemption	2327
Publication, communication, etc., employees, definition of terms	2326
Learner employment certificates, issuance for various industries (2 notices)	2324, 2325
Federal Trade Commission:	
Orders appointing examiner, etc.:	
Davidson Enamel Co., Inc.	2328
Stiefel Medicinal Soap Co., Inc., et al.	2328
Securities and Exchange Commission:	
Northern Indiana Public Service Co., and Northern Indiana Power Co., joint application approved	2328
West Coast Power Co., order reopening record, etc.	2328

[F.C.A. 182]

### THE FEDERAL LAND BANK OF BERKELEY INSURANCE FIRE LOSS FEES

Section 31.10 of Title 6, Code of Federal Regulations, is hereby revoked.

(Sec. 13 "Ninth", 39 Stat. 372, 12 U.S.C. 781, "Ninth"; sec. 32, 48 Stat. 48, as amended, 12 U.S.C. 1016; sec. 1, 48 Stat. 344, 12 U.S.C. 1020; sec. 2, 48 Stat. 345, 12 U.S.C. 1020a; 6 CFR 10.337) [Res. Ex. Com., March 21, 1940]

[SEAL] FEDERAL LAND BANK  
OF BERKELEY,  
By CHAS. PARKER,  
President.

[F.R. Doc. 40-2523; Filed, June 20, 1940; 11:21 a. m.]

[F.C.A. 183]

### THE FEDERAL LAND BANK OF BERKELEY REAMORTIZATION FEES

Section 31.12 of Title 6, Code of Federal Regulations, is amended to read as follows:

§ 31.12 *Reamortization fees.* No fees shall be charged for reamortization, except that the applicant is required to pay actual cash outlays for abstract expense, notarial costs, recording fees, and other disbursements necessary for completion of the transaction which may legally be charged to the borrower.

This regulation applies to Land Bank, first Commissioner, and joint Land Bank and Commissioner loans.

(Sec. 13 "Thirteenth", as added by sec. 4, 47 Stat. 1548, sec. 32, 48 Stat. 48, as amended, secs. 1, 2, 4 (b) (as amended), 48 Stat. 344, 345, 346; 12 U.S.C. 781 "Thirteenth", 1016, 1020, 1020a, 1020d, and Sup.; 6 CFR 19.4043, 4 F.R. 4942 DI) [Res. Ex. Com. October 13, 1939]

[SEAL] FEDERAL LAND BANK  
OF BERKELEY,  
By CHAS. PARKER,  
President.

[F. R. Doc. 40-2524; Filed, June 20, 1940; 11:21 a. m.]

### TITLE 9—ANIMALS AND ANIMAL PRODUCTS

#### CHAPTER I—BUREAU OF ANIMAL INDUSTRY

[Amendment 44 to Declaration 12]

### DECLARING NAMES OF COUNTIES PLACED IN MODIFIED TUBERCULOSIS-FREE ACCREDITED AREAS<sup>1</sup>

JUNE 1, 1940.

In accordance with Section 2 of Regulation 7 of B.A.I. Order 309, as amended effective September 10, 1936, the following named counties are hereby declared "Modified Accredited Areas" until the date given opposite each county.

California: Alameda, June 1, 1943; Stanislaus, June 1, 1943.

In accordance with Section 2 of Regulation 7 of B.A.I. Order 309, as amended effective September 10, 1936, the following named counties, having completed the necessary retests for reaccreditation, are hereby continued in the status of "Modified Accredited Areas" until the date given opposite each county named.

Arkansas: Marion, June 1, 1943.  
California: Napa, June 1, 1943.  
Colorado: Eagle, June 1, 1943; Gunnison, June 1, 1943; Ouray, June 1, 1943; Pitkin, June 1, 1943.

Florida: Jackson, June 1, 1943; Liberty, June 1, 1943; Wakulla, June 1, 1943.

Idaho: Blaine, June 1, 1943.

Illinois: Edgar, June 1, 1946; Winnebago, June 1, 1943.

Indiana: Knox, June 1, 1943; Lagrange, June 1, 1943.

<sup>1</sup>Supplements footnote to 9 CFR 77.3.

Iowa: Clinton, June 1, 1943; Delaware, June 1, 1943; Emmet, June 1, 1943; Louisa, June 1, 1946; Mahaska, June 1, 1943; Marion, June 1, 1943; Story, June 1, 1943.

Kansas: Decatur, June 1, 1943; Graham, June 1, 1943; Logan, June 1, 1943; Norton, June 1, 1943; Rawlins, June 1, 1943; Sherman, June 1, 1943; Thomas, June 1, 1943; Wallace, June 1, 1943.

Kentucky: Bullitt, June 1, 1943; Butler, June 1, 1943; Edmonson, June 1, 1943; Floyd, June 1, 1943; Trigg, June 1, 1943.

Maryland: Allegany, June 1, 1943.

Michigan: Calhoun, June 1, 1943; Emmet, June 1, 1943; Kalamazoo, June 1, 1943; Montmorency, June 1, 1943; Saginaw, June 1, 1943; St. Joseph, June 1, 1943.

Mississippi: Choctaw, June 1, 1943; Leake, June 1, 1943.

Missouri: Caldwell, June 1, 1943; Douglas, June 1, 1943; Holt, June 1, 1943.

Nebraska: Cherry, June 1, 1943; Sheridan, June 1, 1943.

New Hampshire: Carroll, June 1, 1943; Sullivan, June 1, 1943.

New Jersey: Ocean, June 1, 1942.

New York: Essex, June 1, 1943; Herkimer, June 1, 1943; Schuyler, June 1, 1943; Ulster, June 1, 1943; Warren, June 1, 1943; Yates, June 1, 1943.

North Carolina: Cherokee, June 1, 1943; Chowan, June 1, 1943; Edgecombe, June 1, 1943.

Ohio: Crawford, June 1, 1943; Hamilton, June 1, 1943; Miami, June 1, 1943; Richland, June 1, 1943; Williams, June 1, 1943.

Rhode Island: Kent, June 1, 1943.

South Carolina: Aiken, June 1, 1943.

Tennessee: Unicoi, June 1, 1943; White, June 1, 1943.

Texas: Caldwell, June 1, 1943; Cochran, June 1, 1943; Crockett, June 1, 1943; El Paso, June 1, 1943; Hudspeth, June 1, 1943; Loving, June 1, 1943; Sterling, June 1, 1943; Sutton, June 1, 1943; Val Verde, June 1, 1943; Ward, June 1, 1943; Winkler, June 1, 1943; Wichita, June 1, 1943.

Utah: Millard, June 1, 1943.

Virginia: Bedford, June 1, 1943; Rockingham, June 1, 1943.

Washington: Benton, June 1, 1943; Douglas, June 1, 1943; Grays Harbor, June 1, 1943; Island, June 1, 1943; Pend Oreille, June 1, 1943; Snohomish, June 1, 1943.

West Virginia: Marion, June 1, 1943; Upshur, June 1, 1943.

Wisconsin: Grant, June 1, 1946; Lafayette, June 1, 1943.

Puerto Rico: Anasco, June 1, 1943; Gurabo, June 1, 1943; Rincon, June 1, 1943; San Lorenzo, June 1, 1943.

Declaration No. 12, dated October 1, 1936, as amended,<sup>2</sup> is hereby further amended accordingly.

[SEAL] J. R. MOHLER,  
Chief of Bureau.

[F. R. Doc. 40-2529; Filed, June 20, 1940; 11:46 a. m.]

<sup>2</sup>5 F.R. 1811.



## TITLE 10—ARMY: WAR DEPARTMENT

## CHAPTER VIII—PROCUREMENT AND DISPOSAL OF EQUIPMENT AND SUPPLIES

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS<sup>1</sup>

§ 81.10 *Invitations for bids*—(a) *Preparation*. (1) Every invitation for bids will contain the following: (i) A number consisting of the station number of the office issuing it if one has been assigned, followed in the order named by a dash, the last two numerals of the fiscal year in which the invitation is issued, a dash, and the serial number of the invitation. Only one series will be used under any one station number for any arm, service, or bureau for each fiscal year, and the first invitation issued in each fiscal year will bear 1 as its serial number. A serial number once assigned to an invitation which has been distributed will not be used in the same fiscal year for any other invitation. Other numbers or letters may be prefixed to this number if such action is desired by the chief of an arm, service, or bureau.

(ii) The date of issue.

(iii) The name and address of the office to which bids will be sent. This will be exactly what should appear in the address on the envelopes containing the bids.

(iv) The number of copies of bids which must be submitted. Usually bids in triplicate should be required.

(v) The hour and date on which bids will be opened. See (h).

(vi) An itemized schedule showing—

Item numbers.

The kind, quality, and quantity of the articles, or the nature and extent of the services required. See (e).

The place, time, and rate of delivery of articles, or the place where the services are to be performed and the time allowed for their performance. If it is not desired to limit bidders in these respects, this may be omitted. See (3) below.

Except in the purchase of highly specialized equipment for which a special procedure has been directed, the factors that will be considered in determining the award and an evaluation thereof in terms of money or percentages of bid prices sufficiently definite for a bidder to apply them to his bid. See (f) (1) for an example.

Kind of packing required.

Conditions of inspection.

A statement of the alternates, if any, which will be considered in making awards.

(vii) A statement as to where and how the specifications used may be obtained.

(viii) A statement as to the certificates which the successful bidders will be required to execute in submitting their claims for payment. See §§ 35.1 and 35.4 as to the various certificates.

(2) If discount provisions contained on the prescribed forms are not suitable, the following changes therein may be made: (i) The discount provision on Standard Form No. 31 (Standard Government Form of Bid (supply contract)) relating to "10 calendar days," "20 calendar days," may be deleted whenever it is definitely known that final acceptance cannot be accomplished, or when funds do not become available for payment, within the period of time from date of delivery. In order to take advantage of any discounts offered, this authority will be used sparingly. If, for example, commercial practice for a certain class of material is to use a 10-day discount period, the deletion will not be made. See § 35.29.

(ii) In special cases where a prolonged acceptance test is necessary and the invitations or specifications set a limiting date for acceptance that is more than 20 days after date of delivery, the provision on Standard Form No. 31 or Standard Form No. 33 as to the computation of discount time may be changed to read as follows:

Time in connection with the discount offered will be computed from the limiting date set herein for final acceptance.

When this change is made, the limiting date for final acceptance must be stated in the invitation.

(3) *F. o. b. point*. Whenever land-grant railroads or water routes can be utilized for the transportation of supplies, invitations will call for delivery f. o. b. point of origin in preference to f. o. b. point of destination.

(4) *Use of American vessels for over-sea shipments*. (i) The invitation used in the purchase of all commodities for over-sea delivery will call for alternate bids under the following conditions:

The contractor to use American vessels in effecting the shipments.

The contractor to use foreign vessels in effecting the shipments.

(ii) Bidders will be directed to show the costs of shipments as separate items and to submit with the bid a signed certificate that the rates for shipment in American vessels do not exceed the rates offered for similar shipment of commercial supplies.

(5) *Bid bonds*. Whenever it is intended to require that bid bonds with surety or sureties, or other security authorized by law and regulations in lieu of such surety or sureties, shall accompany bids, that fact, the amount of the bid bond required, and the periods to be allowed after the opening of bids for the execution of the contracts and bonds, will be stated in the invitation. The invitation will state also that if certified checks are deposited in lieu of surety or sureties, such checks shall be drawn to the order of the Treasurer of the United States. See (f) and §§ 81.21 to 81.31.

(6) *Performance or payment bond*. If performance and payment bonds or a performance bond only will be re-

quired, a clause to that effect indicating the amounts or amount thereof will be included in the invitation. If no bond is to be required the invitation will so state. See (f) and §§ 81.21 to 81.31.

(7) *Liquidated damages*. If liquidated damages are to be imposed for delayed deliveries, a clause covering the conditions thereof including the amount to be assessed for each day performance is delayed beyond the time fixed for deliveries or performance will be included in the invitation. See §§ 81.16, 81.19 and 35.8.

(8) Any other special conditions required by law or regulations or specifically authorized in certain cases will be included in the invitation. See (f) and War Department Procurement Circulars.

(b) *Amendments*. Amendments, if issued, will refer to the number, date of issue, and opening date of the original invitation, will clearly indicate the nature of the changes made therein, and will be serially numbered as issued.

(c) *Information to be furnished to prospective bidders*. (1) Information in regard to supplies or services for which bids have been invited will be furnished on application to all persons, firms, or corporations desiring it, except that information concerning restricted projects will be furnished only as authorized in §§ 5.6 and 5.10.

(2) Except for restricted projects, prospective bidders will be—

(i) Permitted to examine the standard samples at the place where deposited;

(ii) Furnished with or allowed to examine plans and specifications of all works upon which they desire to bid (a deposit may be required, if necessary); and

(iii) Furnished, in general, with any information needed to enable them to act understandingly.

See (e), (f) and (g).

(3) The estimated cost of the supplies included in an invitation will not be furnished to prospective bidders nor will such information be shown on any copy of the invitation.

(d) *Assistance not to be rendered*. No person who sustains, at the time, an active relation to the military or civil administration under the War Department will render assistance to bidders in the preparation of bids.

(e) *Specifications*. Every item on an invitation for bids will refer to one of the specifications listed or will contain a description as indicated below.

(1) *Federal specifications*. These specifications usually cover commercial articles used by two or more Federal agencies and their use is mandatory upon all agencies of the Government. Reference thereto will read: "Federal specification ----." The following extract from regulations of the Procurement Division, Treasury Department, applies to all agencies of the War Department and the report required thereby will be at-

<sup>1</sup> §§ 81.10 and 81.11 are superseded.



tached to the copy of the invitation for bids furnished the Assistant Secretary of War:

If any executive department finds that for administrative reasons a Federal specification can not be used to meet its particular or essential needs, it is authorized to use its own purchase specification, but such specification shall include all applicable provisions of the Federal specification, and in those cases where the purchase exceeds \$1,000 a report shall be made to the Procurement Division, Branch of Supply, showing the necessity for deviation from the Federal specification.

(2) *United States Army specifications.* These specifications usually cover articles or services which are peculiar to the military service or which are not covered by Federal specifications, and their use is mandatory upon all agencies of the Army. Reference thereto will read: "United States Army specifications ----." The Index of the United States Army and Federal Specifications Used by the War Department, revised annually by the War Department, contains a list of the United States Army as well as of the Federal specifications used by the War Department.

(3) *Army-Navy aeronautical specifications.* Those specifications, which cover articles or services peculiar to the needs of the Air Corps and of the Bureau of Aeronautics, Navy Department, are issued by the Army and Navy Munitions Board and are mandatory upon all agencies of the Army. These specifications come within the same category as United States Army specifications, being governed by the same regulations wherever applicable and unless otherwise specified. They are identified by the prefix letters "A-N" and reference thereto will read "A-N Aeronautical Specification ----." An index of these specifications is distributed to the Air Corps activities only, but copies of the index and the specifications may be obtained by other War Department activities concerned upon request to the Chief of the Air Corps.

(4) *Tentative specifications.* These specifications usually cover articles or services which are infrequently purchased by the War Department or which are not yet covered by Federal or United States Army specifications. Reference thereto will read: "(insert arm, service, or activity) tentative specifications ----." They are not published or distributed to other agencies by the agency preparing them but may be obtained on request.

(5) *Navy specifications.* These specifications are similar to United States Army specifications and while their use is not mandatory in the War Department, such use is encouraged in applicable cases and in the absence of other specifications in order to avoid duplication of effort. Chiefs of supply arms and services are authorized to obtain directly from the Navy Department those speci-

fications which are available. Reference thereto will read: "Navy specifications ----." An index of these specifications is not distributed to the Army.

(6) *Description in lieu of specifications.* If the article required is not covered by any specifications in preparation of a tentative specification is considered not justified, a description containing all of the essential requirements to be met by the article will be used instead. If, because of technical or involved construction or other sufficient reasons such description cannot be made, the name of one or more makes of the article including the words "or equal" will be specified so as not to limit competition to the particular makes named. This action is an expedient only and not a normal procedure and will not be taken in large purchases.

(7) *Samples, cuts, catalog descriptions, etc.* In special cases it may be necessary to require bidders to submit samples, cuts, catalog descriptions, etc., with their bids, but if a proper specification is available or an adequate description of the article is possible, such requirement will not be included unless necessary to a proper evaluation.

(8) *Distribution of United States Army Specifications.* (i) A liberal attitude will be taken in complying with requests for specifications from prospective bidders and possible manufacturers of Army supplies, whether for the purpose of broadening the peacetime market or for establishing new sources of supply in case of emergency.

(ii) It is not practicable to supply complete files or copies of United States Army specifications to private or public reference files.

(iii) When a request for United States Army specifications must be unfavorably considered, it may be found that Federal specifications will fill the need. The attention of applicants will be invited to the existence of the Federal Standard Stock Catalog, section IV of which lists Federal specifications, and the current issue of which can be bought from the Superintendent of Documents, Government Printing Office, Washington, D. C. The price of printed specifications is listed therein and the specifications are obtainable in that office at the listed price.

(f) *Special conditions authorized or required to be included.*—(1) *Standard Form No. 22 (Standard Government Instructions to Bidders (construction and supply)).* When bids are invited for construction work or the purchase of supplies not readily procurable by purchase against the contractor in the open market, as provided in § 81.33 (e), paragraph 17 of the form will be changed to read as follows:

*Time of performance.* When not otherwise specified, the bidder must state the least number of calendar days (counting Sundays and holidays) after date of receipt of notice to proceed in which he will complete performance. In stating

time, the bidder should make due allowance for probable difficulties which may be encountered. When the invitation for bids states that time will be a material factor for the purpose of comparing bids, there will be added to each bid other than the one offering to complete in the shortest time an amount equal to the daily liquidated damages named in the invitation for bids multiplied by the number of calendar days that such bidders have named for performance of the work in excess of the days named by the bidder proposing to do the work in the shortest time.

(2) *Technical material and supplies.*

(i) The following are technical matériel and supplies:

Ordnance and ordnance accessories including Army artillery, naval guns, mountings, and gun forgings.

Range finders.

Methods of directing gunfire and devices connected therewith.

Small arms.

Machine guns.

Mines.

Fuzes.

Bombs, aerial and otherwise.

Torpedoes, methods of firing same, outfits and all parts.

Ammunition and ammunition details, Armor plate.

Propellant powder and high explosives.

All devices connected with military aeronautics.

All matters connected with chemical warfare.

Military communication devices and equipment, field, and naval.

(ii) The following specific paragraphs are authorized, when applicable, for inclusion in War Department invitations for bids and contracts covering the supplies designated in (i) above. So many of the following paragraphs as may be considered pertinent to the particular contract will be included in the invitation and inserted between pages 4 and 5 of Standard Form No. 32 (Standard Government Form of Contract (supplies)). The paragraphs, typed on letter size paper, will be numbered consecutively beginning with Article 16. The additional articles will be enumerated under Article 15 (Alterations) with the statement "Approved by the Director of the Bureau of the Budget, December 29, 1927." The additional pages will be numbered 4a, 4b, 4c, etc.

ART. — *Partial payments.* The contracting officer may, from time to time, authorize partial payments to the contractor upon property acquired and/or produced by it for the performance of this contract: *Provided*, That such partial payments shall not exceed 75 percent of the cost to the contractor of the property upon which payment is made, which cost shall be determined from evidence submitted by the contractor and which must be such as is satisfactory to the contracting officer: *Provided further*, That provision is not other-



wise made in this contract for such partial payments.

ART. — *Title to property where partial payments are made.* The title to all property upon which any partial payment is made prior to the completion of this contract shall vest in the Government in its then condition forthwith upon the making of any such partial payment or payments: *Provided, however,* That nothing herein shall deprive the contractor of any further partial or final payments due or to become due hereunder; nor relieve the contractor and/or the Government of any of their respective rights or obligations under this contract.

ART. — *Title to property where partial payments are made and default occurs.* The contractor agrees that in case of default by it in the performance of this contract or of other termination thereof before completion, such default or other termination shall ipso facto operate to vest in the Government title to all property acquired and/or produced by the contractor for the performance of this contract, the title to which has not been previously vested in the Government under the provisions of this contract: *Provided,* That the provisions of this section shall not be operative unless at least one partial payment has been made under this contract.

ART. — *Fire insurance.* The contractor agrees to insure against fire all property in its possession upon which a partial payment is about to be made, such insurance to be in a sum at least equal to the amount of such payment plus all other partial payments, if any, theretofore made thereon, and further agrees to keep such property so insured, free of cost to the Government, until the same is delivered to the Government. Such property is to be considered as delivered to the Government upon its final acceptance. Such insurance policy or policies shall be taken out with a company or companies satisfactory to the contracting officer and shall provide that loss, if any, shall be payable to the contractor and the Government as their respective interests may appear. All such policies shall be filed with the contracting officer and shall be subject to his approval as to form and substance.

(NOTE: No payment will be made to the contractor until an acceptable fire insurance policy has been filed with the contracting officer.)

ART. — *Termination when contractor not in default.* If, in the opinion of the contracting officer upon the approval of the Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not in default, by a notice in writing relative thereto from the contracting officer to the contractor. In case such notice be given the contractor this contract shall terminate, ipso facto, upon the giving of said notice. Upon such termination the

contractor shall forthwith deliver to the Government f. o. b. \_\_\_\_\_ in their then state of completion, all articles, spare parts, drawings, and other information and things called for herein, not previously delivered, and all work in process, materials, and fabricated parts acquired and/or produced by the contractor for the performance of this contract, and the Government shall then forthwith pay the contractor all amounts, if any, remaining due and unpaid under this contract for completed articles, spare parts, drawings, and other information and things called for herein, theretofore completed, delivered, and accepted by the Government; and the Government shall also forthwith pay the contractor for all partially completed articles, spare parts, work in process, materials, fabricated parts, drawings, and other information and things to be so delivered hereunder, an amount to be computed as follows:

(a) There shall be determined by an audit conducted by or for the contracting officer, the total net amount of all expenditures and obligations made and/or incurred by the contractor under this contract in designing, manufacturing, and delivering said partially completed articles, spare parts, work in process, materials, fabricated parts, drawings, and other information and things so delivered hereunder.

(b) The contractor and the contracting officer shall agree upon an estimate, based on the foregoing audit and any other pertinent data, of the net cost to the contractor of fully completing and delivering said partially completed articles, spare parts, drawings, and other information and things called for herein, all in accordance with the requirements of this contract had it not been terminated, including in such estimate all cost previously incurred under this contract in designing and manufacturing said partially completed articles, spare parts, drawings, and other information and things, as well as those costs which would be required in the future for the entire completion and delivery thereof. In the event of the failure of the contractor and the contracting officer to arrive promptly at such an agreement, said estimate shall be determined in the manner provided in this contract for the adjustment of claims and disputes.

(c) The percentage which the foregoing item (a) is of item (b) shall then be determined and a sum of money equal to that same percentage of the total contract price (plus or minus any additions or deductions for changes), of such partially completed articles, spare parts, drawings, and other information and things, had they been completed, delivered, and accepted in accordance with the terms of this contract, shall then be computed.

(d) The total of all payments, if any, previously made to the contractor on account of such partially completed

articles, spare parts, drawings, and other information and things, shall then be ascertained.

(e) The contractor shall then be paid the same sum of money computed in accordance with (c) above, less the total of item (d).

Upon the making of said payments all obligations of the Government to make further payments or to carry out other undertakings hereunder shall cease forthwith and forever, except that all rights and obligations of the respective parties under the articles, if any, of this contract applicable to Patent Infringements and Reproduction Rights shall remain in full force and effect.

ART. — *Liability for Government property.* The contractor's liability for loss or damage to Government property delivered to it for installation in the articles contracted for hereunder, or for use in connection with the performance of this contract, shall be that of a bailee under a mutual benefit bailment.

ART. — *Subcontracts.* No contract shall be made by the contractor with any other party for furnishing any of the completed or substantially completed articles, spare parts, or work herein contracted for without the written approval of the contracting officer.

ART. — *Reproduction rights.* It is understood and agreed that the contractor does (or does not) convey to the Government any reproduction rights in or to the articles and/or spare parts called for herein by virtue of the terms of this contract.

ART. — *Weight guarantee.* The contractor shall guarantee that the weights estimated in the design shall not be exceeded in the first actual airplane. In the event the total weight of the first article should exceed the total guaranteed weight, the Government may, at its option, accept the article, but in the event of such acceptance there shall be deducted from the contract price and payments the sum of one thousand dollars (\$1,000) for each increment of one hundred (100) pounds said article exceeds said guaranteed weight. No deductions shall be made for any increment of overweight of less than one hundred (100) pounds. In event the total weight of subsequent articles contracted for shall exceed the weight of the former articles contracted for with proper allowance for changes resulting from changed requirements set forth in the specification or amendments thereto for subsequent articles, the Government may at its option accept the articles, but in the event of such acceptance there shall be deducted from the contract price and payments the sum of one thousand dollars (\$1,000) for each increment of one hundred (100) pounds said article exceeds said weight of articles on former contracts as said weight shall be modified by changed requirements set forth in the specification or amendments thereto for the articles in question. No deduc-



tion shall be made for any increment of overweight of less than one hundred (100) pounds.

ART. —. *Option clause.* It is mutually understood and agreed by the parties hereto that additional articles and supplies in the following quantities and not to exceed the unit price set forth below may be purchased at the option of the Government at any time within ----- days from the date of this contract.

It is further understood and agreed that if option ---- is exercised there will be a reduction of ----- per article on all articles purchased.

ART. —. *Section 10, Air Corps Act (July 2, 1926 (44 Stat. 784)).* (Additional clauses made necessary and required by the foregoing law.)

ART. —. *Manufacturers' cross-license agreement—Manufacturers' Aircraft Association.* (a) The contractor will hold and save the Government, its representatives, and all other persons acting for it as agent, harmless from all demands or liabilities for alleged use of any patented invention in the making or supplying or using of the articles or work herein contracted for, or in any way concerning the fulfillment of this contract by the contractor, unless such use of the patented invention, being necessary to the fulfillment of the contract, is specifically prescribed in writing by the Government or the use necessarily flows from the nature of the thing being produced or supplied: *Provided, however,* That the obligation of the contractor in this respect shall include all demands and liabilities based on patents that are enjoyed by members of the Manufacturers' Aircraft Association or on patents that are cross-licensed under the so-called Cross-License Agreement and/or its supplements, under which the members of said Association are entitled to the use of certain patents; and if and when required, the contractor will discharge and secure the Government from all demand or liability on account thereof by proper release from the patentee or patentees or by bond or otherwise to the satisfaction of the Chief of the Air Corps.

(b) The Government will hold and save the contractor, its representatives and agents, subcontractors, or otherwise, harmless from all liability under judgments by courts of competent jurisdiction that may be obtained against the contractor, its representatives or agents, subcontractors or otherwise, because of the use of any patented invention specifically prescribed and authorized in writing by the Government as necessary for the performance of this contract, or the use of any patented invention which necessarily flows from the nature of the thing being produced, but not otherwise: *Provided,* That such patent or patents so used are not owned or controlled by the contractor, its officers or employees or persons in privity with the contractor, or are not enjoyed by members of the Manufacturers' Aircraft Association, or

are not cross-licensed under the Cross-License Agreement or any supplement thereto: *Provided further,* That immediate notice of any demand, liability, or legal proceedings arising from such use is given in writing by the contractor to the contracting officer, and reserving to the Government the right to intervene in any such demand or proceeding and in its discretion to defend the same or make settlement thereof, and the contractor shall furnish all information in its possession and all assistance of its employees requested by the Government.

(iii) Any additional paragraphs considered necessary in the procurement of technical matériel and supplies not included in (ii) above will be reported to the Assistant Secretary of War for approval before inclusion in the contract.

(3) *Patented supplies or those requiring patented processes in their manufacture.* (i) If purchase in the open market (under authority of 31 Stat. 905 (10 U.S.C. 1201)) of an item known to be patented, is not considered proper because of refusal of the patentee to sell at a reasonable price, or because the patent involved is of questionable validity or because of other reasons, bids will be invited therefor.

(ii) When bids are invited and the financial responsibility of prospective bidders is unknown, the following special patent article will be used and the invitation will fix the amount of the special infringement bond referred to in the article in addition to that of the regular performance bond:

*Patents.* The contractor shall hold and save the Government, its officers, agents, servants, and employees harmless from liability of any nature or kind, including costs and expenses, for or on account of any patented or unpatented invention, article, or appliance manufactured or used in the performance of this contract, including their use by the Government, and the contractor shall give a bond in an amount satisfactory to the United States, the terms of which shall fully protect the Government against loss should the contractor default in the obligation under this article.

(4) *Variations from quantities specified in invitations for bids.* Hereafter on invitations for bids when a variation from the quantity specified in the invitation is considered necessary, this variation will, only in rare cases, exceed 25 percent and should not in any case exceed 50 percent. See 8 Comp. Gen. 354.

(5) *Purchase of military supplies; preference to local contractors.* The Quartermaster's Department of the Army, in obtaining supplies for the military service, shall state in all advertisements for bids for contracts that, conditions of price and quality being equal, preference shall be given to articles produced on the Pacific coast, to the extent of the consumption required by the public service there. See R.S. 3716; 10 U.S.C. 1202.

(6) *Options permitted by specifications—(i) General.* Many adopted specifications cover several grades or types and provide for several options in methods of inspection, etc. When such specifications are used in conformity with (e), the invitation will specifically state the grade, type, or method of inspection, etc., on which bids are to be based.

(ii) *Lumber.* Due to the nature of lumber and the methods employed in its production, marketing, and inspection, proper decisions as to the action in (i) above are especially demanded. Invitations for bids should ordinarily provide that the lumber to be delivered will be grade-marked, or furnished on a certificate of grade. In addition, the invitation will state that, in case of equal bids, awards will be made for softwood lumber in the following order of preference: that which is grade-marked, that which is accompanied by a certificate of grade (inspection) furnished by one of the associations recognized in the specification, and that which is inspected by the purchasing agency; for hardwood lumber in the following order of preference: that which is furnished on a certificate of grade (inspection) furnished by one of the associations recognized in the specification, and that which is inspected by the purchasing agency. The option permitted in the specification providing for inspection by the purchasing agency will be used as such a basis only when—

The inspection facilities of that agency are adequate to make a competent inspection.

Less than a carload is needed.

Because of great difference in cost, or the inability of the inspection associations recognized in the specifications to make timely inspections or other sufficient reasons, the needs of the Government will not permit purchase on the basis of other options.

(7) *Exchange of used supplies for new supplies.* Before an invitation for bids is issued, consideration will be given to the possibility of exchanging used supplies for those to be purchased. If it appears that the sale of the used supplies without regard to the purchase of the new supplies will result in the lowest net cost to the Government, the used supplies, if sold, will be sold as directed in AR 5-50 and §§ 83.1 to 83.3a, CFR, and the new supplies will be purchased without reference to such disposal. If, however, it appears possible that the disposal of the used supplies coincidentally with the purchase of new supplies to be used for the same purpose will result in a lower net cost to the Government, the invitation for bids covering the new supplies will also—(i) Invite bids for the cash sale of the used supplies.

(ii) Invite bids for a trade-in allowance if the used supplies are exchanged for the new supplies bid upon.



(iii) State that if an award is made, it will be made on either (i) or (ii) above.

In the latter case, if the purchase of the new supplies is authorized to be made in the open market by paragraph 4, AR 5-240 and § 81.33, CFR, the requests for quotations will conform to (i), (ii), and (iii) above.

(8) *Exchange of used supplies for reconditioned supplies.* When an invitation for bids is issued covering the reconditioning of used supplies, if it appears that the lowest net cost to the Government will result if the used supplies are exchanged for similar reconditioned supplies, the invitation for bids will also invite bids for a trade-in allowance if the used supplies are exchanged for the reconditioned supplies bid upon. The invitation will state that no supplies which have been sold by the Government will be purchased thereunder, and none will be purchased. If the purchase is authorized to be made in the open market by paragraph 4, AR 5-240 and § 81.33, CFR, the requests for quotations will conform to the above procedure.

(9) *Public works of the United States exceeding \$2,000.* (i) See paragraph 1, AR 5-220, for a definition of public work of the United States and §§ 81.26 and 81.28, CFR, for the amounts of the bonds referred to in (ii) below.

(ii) Invitations for bids in applicable cases will include the following special condition and a clause regarding performance and payment bonds as directed in (a) (6):

Any award exceeding \$2,000 in amount made pursuant to this invitation shall be made subject to the provisions of the act approved August 24, 1935 (49 Stat. 793; 40 U.S.C. 270a), entitled: An Act Requiring contracts for the construction, alteration, and repair of any public building or public work of the United States to be accompanied by a performance bond protecting the United States and by an additional bond for the protection of persons furnishing material and labor for the construction, alteration, or repair of said public buildings or public work.

NOTE: Subparagraphs (f) (10) to (f) (16), inclusive, remain as previously codified.

(17) *Eight-hour law.* (i) All invitations for bids and resultant contracts, except those in the categories referred to in (ii) below, for work which may require or involve the employment of laborers or mechanics, will contain a provision as follows:

No laborer or mechanic doing any part of the work contemplated by this contract, in the employ of the contractor or any subcontractor contracting for any part of said work contemplated, shall be required or permitted to work more than 8 hours in any one calendar day upon such work at the site thereof. For each violation of the requirements of this provision a penalty of \$5 shall be

imposed upon the contractor for each laborer or mechanic for every calendar day in which such employee is required or permitted to labor more than 8 hours upon said work, and all penalties thus imposed shall be withheld for the use and benefit of the Government: *Provided*, That this stipulation shall be subject in all respects to the exceptions and provisions of the act of June 19, 1912 (37 Stat. 137; 40 U.S.C. 324, 325), relating to hours of labor.

(ii) The act does not apply to the following classes of contracts except when the classes of work contracted for have been or at the time of entering into the contract are performed by the Government:

Contracts for supplies, whether manufactured to conform to particular specifications or not.

Contracts for such materials or articles as may usually be bought in open market, except armor and armor plate, whether made to conform to particular specifications or not.

Contracts for the construction or repair of levees or revetments necessary for protection against floods or overflows on the navigable waters of the United States.

Contracts for the transmission of intelligence.

Contracts for transportation by land or water.

(18) *Foreign materials.* See AR 5-340 and § 81.34 to 81.37, CFR, for special conditions as to foreign and domestic materials.

(19) *Convict labor.* See act of February 23, 1887 (24 Stat. 411; 18 U.S.C. 708, 709) and Executive Order No. 325-A, May 18, 1905. Invitations for bids in applicable cases will contain a provision as follows:

The contractor shall not employ any person undergoing sentence of imprisonment at hard labor.

(20) *Federal, State, and local taxes.* Invitations for bids and bids will contain the following: (i) *Federal taxes.* For the furnishing of items covered by title IV of the Revenue Act of 1932, as amended, bidder will indicate which one of the following statements is applicable to his bid:

Prices herein do not include any Federal taxes imposed by title IV of the Revenue Act of 1932, as amended.

Prices herein include the Federal taxes imposed by title IV of the Revenue Act of 1932, as amended, but consent is hereby given to the deduction of said taxes and the acceptance of a tax exemption certificate in lieu thereof.

Prices herein include the Federal taxes imposed by title IV of the Revenue Act of 1932, as amended.

Whenever either of first two of the three statements immediately preceding is applicable, bidder will state the amount of the taxes involved as to each item for which a tax exemption certificate will be required.

(ii) *State or local taxes.* For the furnishing of all supplies, bidder will indicate which one of the following statements is applicable to his bid:

Prices herein do not include any State or local taxes imposed directly on the sale of the supplies.

Prices herein include all State and local taxes imposed directly on the sale of the supplies.

Whenever the first of the two statements immediately preceding is applicable, bidder will state the amount of the taxes involved as to each item for which a tax exemption certificate is required.

(21) *Secret, confidential, or restricted projects.* See §§ 5.8 to 5.16.

(g) *Distribution.* Copies of the invitation will be distributed to principal manufacturers of or dealers in the supplies required or to those in position to render the services necessary. The extent of this distribution will be determined by the purchasing officer but must be wide enough to assure real competition on all items if competition is obtainable. Each purchasing officer will maintain a live bidders' list containing the names and addresses of those persons or firms to whom invitations should be distributed. Periodically those who habitually fail to submit bids after such distribution will be removed therefrom. Invitations will not be distributed to those contained in "Confidential Lists of Bidders to Whom Awards Will Not Be Made" published by the War Department during the period covered in each case.

(h) *Time allowed.* (1) Invitations for bids will as a rule allow 30 days to intervene between the date of issue and the date of opening bids. Subject to limitations prescribed by the chief of the supply arm or service concerned, a shorter period may be allowed, but no period of less than 10 days will be designated except in case of emergency. The existence of such emergency will be determined by the officer upon whom the duty of making the purchase devolves.

(2) When such emergency will not permit 10 days to intervene, the copy of the invitation furnished the Assistant Secretary of War will bear on its face the following certificate and appropriate reasons signed by that officer:

I certify that the date shown hereon for the opening of bids cannot be a later date for the following reasons: -----

(3) The action indicated in (2) above will be taken even if only a few days can be allowed and only when this is not possible will purchases be made in the open market as authorized by paragraph 4, AR 5-240 and § 81.33 (a), CFR. (R.S. 3709; 31 Stat. 905; 32 Stat. 514; 41 U.S.C. 5; 10 U.S.C. 1201) [Pars. 5-10, 11a, 12, AR 5-140, May 22, 1940]

§ 81.11 *Publication in newspapers—*  
(a) *Insertions and limitations thereon.* Ordinarily advertisements will be given six insertions in daily or four in weekly papers. When more than 10 days are to intervene between the date of the first



publication and the date of opening, those in the daily newspapers inviting bids will at once be given four consecutive insertions and immediately before the date of opening two consecutive insertions. In case of emergency, advertisements may be given one or more insertions, as time and circumstances permit.

(b) *Information to be furnished by newspapers.* Newspapers officially designated for publishing War Department and Army advertisements are required to forward to the Administrative Assistant of the War Department sworn statements of the commercial rates charged by them to individuals, with their usual discounts and of any changes made in the same, except that in cases originating in the jurisdiction of a corps area commander such sworn statements will be forwarded to the corps area commander concerned. These statements will give the size of type used in the advertisements and show whether the charges are made by the inch, line, square, or folio, the rate for the first and subsequent insertions and if by the square or folio. Fractional parts of an inch, square, or folio will be paid for at proportionate rates. Line rates are preferred as they offer fewer opportunities for mistakes and misunderstandings in the settlement of bills.

(c) *Standard forms.* The following standard forms have been prescribed for general use throughout the Government service in connection with advertising in newspapers. Instructions printed thereon will be complied with.

Standard Form No. 1052 (Statement of Advertising Rates).

Standard Form No. 1053 (Advertising Order).

Standard Form No. 1054 (Public Voucher for Advertising (original)).

Standard Form No. 1054a (Public Voucher for Advertising (memorandum)).

(R.S. 3709; 31 Stat. 905; 32 Stat. 514; 41 U.S.C. 5; 10 U.S.C. 1201) [Pars. 17, 18, 20a, AR 5-140, May 22, 1940]

[SEAL] E. S. ADAMS,  
Major General,  
The Adjutant General.

[F. R. Doc. 40-2516; Filed, June 19, 1940; 2:44 p. m.]

## TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

### CHAPTER I—VETERANS' ADMINISTRATION

#### PART 5—ADJUDICATION; DEPENDENTS' CLAIMS

##### ACCRUED AMOUNTS DUE AND UNPAID AT DEATH<sup>1</sup>

§ 5.2662 *Accrued Benefits:* § 35.02. Pension, compensation or emergency of-

<sup>1</sup> Revision of § 5.2662.

ficers retirement pay, not paid during the lifetime of the person entitled thereto under Public No. 2, 73d Congress (Act of March 20, 1933), and sections 26, 27, 28 and 31, Title III, Public No. 141, 73d Congress (Act of March 28, 1934) and under Public No. 304, 75th Congress (Act of August 16, 1937) excepting sections 1 and 2 (see § 5.2664), shall upon the death of such person be paid under § 35.021, paragraph V, as follows:

(a) *Accrued amounts payable to widow or children.* (1) Upon death of the veteran, first to the widow; second, if there is no widow, to his child or children under the age of eighteen years at his death; (2) upon death of the widow, to her children under the age of eighteen years at her death; (3) upon the death of an apportionee prior to payment of all or any part of an apportioned amount of the veteran's pension, compensation, or emergency officers retirement pay, such apportioned amount not paid shall be payable to the veteran.

(b) *Reimbursement of burial expenses.* In all other cases no payment whatsoever of such pension, compensation, or emergency officers retirement pay shall be made or allowed except so much as may be necessary to reimburse the person who bore the expense of burial. (August 16, 1937)

(c) *Limitation as to filing and perfecting claim.* No payment shall be made under paragraphs (a) and (b) above unless claim therefor shall be filed within one year from the date of the death of the person entitled and perfected by the submission of the necessary evidence within six months from the date of the request of the Veterans' Administration therefor or within one year from the date of death of the person entitled, whichever is the later. Such payment shall include only payments due and unpaid at the time of death under then existing ratings or decisions. (A. D. 360) (June 22, 1940) [48 Stat. 10; 38 U.S.C. 709]

[SEAL] FRANK T. HINES,  
Administrator.

[F. R. Doc. 40-2518; Filed, June 19, 1940; 3:16 p. m.]

#### PART 15—ADJUSTED COMPENSATION LOANS AND SETTLEMENTS ON ADJUSTED SERVICE CERTIFICATES<sup>1</sup>

§ 15.4683 *Requests for additional loan on adjusted service certificates.* (a) It will be the policy of the Veterans Administration to redeem all loans made in accordance with the law and regulations made pursuant thereto, when such loans are made in good faith to the veteran to whom the certificate was issued. If, while his certificate is held by a bank as security for a loan, the veteran applies for the increased loan value au-

<sup>1</sup> Revision of §§ 15.4683-15.4685, 15.4691, 15.4693, 15.4696, 15.4704. Sections canceled listed in last paragraph.

thorized by the amendment to the World War Adjusted Compensation Act dated February 27, 1931, whether or not the loan has matured, the veteran and the bank will be informed fully of the provisions of this section and that the bank may make the loan for the additional amount or, upon request of the veteran, may send the note and certificate to the Administrator of Veterans Affairs. The Administrator shall, if the loan was legally made, accept such certificate and note, and pay to the bank in full satisfaction of its claim the amount of the unpaid principal due it and the unpaid interest at the rate authorized by the World War Adjusted Compensation Act, as amended, up to the date of the check issued to the bank. If the veteran has not filed application for final settlement of his adjusted service certificate under the provisions of the Adjusted Compensation Payment Act, 1936, and demand is made upon the bank to present the note and certificate for redemption prior to the maturity date of the loan and during the lifetime of the veteran, interest will be payable up to the date the check is issued to the bank, or, if demanded by the bank, up to the maturity date of the loan.

(b) If, however, an application for final settlement is filed and the bank is notified to present the note and certificate to the Administrator and does so within fifteen days after the mailing of such notice interest will be payable to the date the check is issued to the bank. If the bank fails to forward the note and certificate within fifteen days after the mailing of the notice, interest shall be paid only up to the fifteenth day after the mailing of such notice. (June 20, 1940) (47 Stat. 724, 725; 38 U.S.C. 642).

§ 15.4684 *Action upon death of veteran prior to maturity of loan on adjusted service certificates.* If the veteran dies before the maturity of the loan, the amount of the unpaid principal and the unpaid interest shall be immediately due and payable. In such case, or if the veteran dies on the day the loan matures or within six months thereafter, the bank holding the note and certificate shall, upon notice of the death, present them to the Administrator, who shall pay to the bank, in full satisfaction of its claim the amount of the unpaid principal and unpaid interest, at the rate authorized by the World War Adjusted Compensation Act, as amended, accrued up to the date of the check issued to the bank; except that if, prior to the payment, the bank is notified of the death by the Administrator and fails to present the certificate and note to the Administrator within 15 days after the notice such interest shall be paid only up to the fifteenth day after such notice. (June 20, 1940) (47 Stat. 724, 725; 38 U.S.C. 642)

§ 15.4685 *Evidence required for redemption of loan on adjusted service certificates.* In order to be eligible for redemption by the Veterans Administra-



tion, the note and certificate must be accompanied by an affidavit of a duly authorized officer (the capacity in which the officer serves must be shown) of the lending bank showing that the said bank has not charged or collected, or attempted to charge or collect, directly or indirectly, any fee or other compensation in respect of the loan, or any other loan made by the bank under the provisions of section 502 of the World War Adjusted Compensation Act, except the rate of interest specified in the section of the Act cited; that the person who obtained the loan is known to the lending bank to be the person named in the Adjusted Service Certificate; and that notice required by § 15.4677 of these regulations was promptly given. In case the note was sold or discounted by the lending bank, there should be incorporated in the affidavit a statement that the veteran was notified promptly of the transfer by mail to his last known address. In case the note was resold or rediscounted by any other bank, affidavit shall be made by a duly authorized officer of such bank that proper notice of such resale or rediscount was promptly mailed to the veteran at his last known address. The proper execution of the appropriate affidavit on Form No. 6615 or 6615a will be considered as a compliance with the requirements of this paragraph. A single affidavit setting forth the full particulars may be accepted to cover any number of veterans' notes submitted for redemption at one time. The affidavit must be executed before a judge of the United States court, a United States commissioner, a United States district attorney, a United States marshal, a collector of internal revenue, a collector of customs, a United States postmaster, a clerk of court of record under the seal of the court, an executive officer of an incorporated bank or trust company, under his official designation and the seal of the bank or trust company, or a notary public under his seal, or a diplomatic or consular officer of the United States, under his official seal. (June 20, 1940) (47 Stat. 724, 725; 38 U.S.C. 642)

§ 15.4691 *Repayment of loans.* Should the veteran so desire, he may repay the amount due on his note in full or in instalments. (June 20, 1940) (47 Stat. 724, 725; 38 U.S.C. 642)

§ 15.4693 (a) *Failure to redeem.* If the veteran fails to redeem his certificate before its maturity there will be deducted from the face value of the certificate the amount of the unpaid principal of the note of the veteran and the unpaid interest thereon to the maturity date of the certificate provided application for settlement of the certificate has not been made. If application for settlement of the certificate has been made, the amount to be deducted will

be the unpaid principal of the note and unpaid interest thereon to September 30, 1931.

(b) If the veteran failed to redeem his certificate and died prior to January 27, 1936 there will be deducted from the face value of the certificate the amount of the unpaid principal of the veteran's note and the unpaid interest thereon to the date of his death. If the veteran died on or after January 27, 1936, the amount to be deducted when making settlement will be the unpaid principal of the veteran's note and the unpaid interest thereon to September 30, 1931. (June 20, 1940) (47 Stat. 724, 725; 38 U.S.C. 642)

#### VETERANS ADMINISTRATION LOANS ON ADJUSTED SERVICE CERTIFICATES UNDER SECTION 502 OF THE WORLD WAR ADJUSTED COMPENSATION ACT, AS AMENDED

§ 15.4696 *By whom loans may be made.* Loans will be made by the Veterans Administration, Washington, D. C. to any veteran, upon his promissory note secured by his adjusted service certificate, in any amount in even dollars not less than \$10 and not in excess of the loan value of the certificate at the date the loan is made. Each certificate contains on its face a table for determining the loan value of the certificate but at no time is the loan value less than fifty per centum of the face value. (June 20, 1940) (47 Stat. 724, 725; 38 U.S.C. 642)

§ 15.4704 *Disposition of notes and certificates.* All notes and certificates shall be held in the custody of the Veterans Administration, Washington, D. C. (June 20, 1940) (47 Stat. 724, 725; 38 U.S.C. 642)

§§ 15.4678; 15.4679; 15.4682; 15.4690; 15.4692; 15.4697; 15.4698; 15.4701; 15.4703; 15.4705; 15.4712; 15.4713; 15.4715; 15.4716; 15.4718; and 15.4719 canceled June 20, 1940.

[SEAL]

FRANK T. HINES,  
Administrator.

[F. R. Doc. 40-2517; Filed, June 19, 1940; 3:16 p. m.]

### TITLE 47—TELECOMMUNICATION

#### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

##### PART 4—RULES GOVERNING BROADCAST SERVICES OTHER THAN STANDARD BROADCAST

###### TABLE OF CONTENTS VISUAL BROADCAST SERVICE Television Broadcast Stations

Sec.	
4.71	Defined.
4.72	Purpose.
4.73	Licensing requirements, necessary showing.
4.74	Charges.
4.75	Announcements.

Sec.

- 4.76 Operating requirements.
- 4.77 Frequency assignment.
- 4.78 Power.
- 4.79 Reports.

#### TELEVISION BROADCAST STATIONS

§ 4.71 *Defined.* The term "television broadcast station" means a station licensed for the transmission of transient visual images of moving or fixed objects for simultaneous reception and reproduction by the general public. The transmission of synchronized sound (aural broadcast) is considered an essential phase of television broadcast and one license will authorize both visual and aural broadcast as herein set forth.\*†

§ 4.72 *Purpose.* A license for a television broadcast station will be issued for the purpose of carrying on research, which must include engineering experimentation tending to develop uniform transmission standards of acceptable technical quality, and which may include equipment tests, training of technical personnel, and experimental program.\*†

§ 4.73 *Licensing requirements, necessary showing.* A license for a television broadcast station will be issued only after a satisfactory showing has been made in regard to the following:

1. That the applicant has a definite program of research and experimentation in the technical phases of television broadcasting, which indicates reasonable promise of substantial contributions to the developments of the television art.
2. That upon the authorization of the proposed station the applicant can and will proceed immediately with its program of research.
3. That the transmission of signals by radio is essential to the proposed program of research and experimentation.
4. That the program of research and experimentation will be conducted by qualified personnel.
5. That the applicant is legally, financially, technically, and otherwise qualified to carry forward the program.
6. That public interest, convenience or necessity will be served through the operation of the proposed station.\*†

§ 4.74 *Charges.* No charges either direct or indirect shall be made by the licensee of a television station for the production or transmission of either aural or visual programs transmitted by such station.\*†

§ 4.75 *Announcements—(a) Station identification.* A licensee of a television broadcast station shall make station identification announcement (call letters and location) at the beginning and ending of each time of operation and during operation (other than purely test opera-

\*Sec. 4 (1), 48 Stat. 1066; 47 U.S.C. 154 (1)—Secs. 303 (b), (c), (e), (f), (j), 48 Stat. 1082; 47 U.S.C. 303 (b), (c), (e), (f), (j).

†Adopted by the FCC, June 18, 1940, effective immediately.



tion) on the hour and half hour as provided below:

1. Such identification announcement during operation need not be made when to make such announcement would interrupt a single consecutive speech, play, religious service, symphony concert, or operatic-production of longer duration than 30 minutes. In such cases the identification announcement shall be made at the first interruption of the entertainment continuity and at the conclusion of such program.

2. In case of variety-show programs, baseball-game broadcasts, or similar program of longer duration than 30 minutes, the identification announcement shall be made within 5 minutes of the hour and half hour.

3. In case of all other programs (except as provided in paragraphs (1) and (2) of this section) the identification announcement shall be made within 2 minutes of the hour and half hour.

4. In making the identification announcement, the call letters shall be given only on the channel of the station identified thereby.

(b) At the time station identification announcements are made, there shall be added the following:

"This is a special television broadcast made by authority of the Federal Communications Commission for experimental purposes."\*†

§ 4.76 *Operating requirements.* (a) Each licensee of a television broadcast station shall diligently prosecute its program of research from the time its station is authorized.

(b) Each licensee of a television station will from time to time make such changes in its operations as may be directed by the Commission for the purpose of promoting experimentation and improvement in the art of television broadcasting.\*†

§ 4.77 *Frequency assignment.* (a) The following groups of channels are allocated for assignment to television broadcast stations licensed experimentally:

#### Group A

- Channel #1 50,000-56,000 kc.
- 2 60,000-66,000 kc.
- 3 66,000-72,000 kc.
- 4 78,000-84,000 kc.
- 5 84,000-90,000 kc.
- 6 96,000-102,000 kc.
- 7 102,000-108,000 kc.

#### Group B

- Channel #8 162,000-168,000 kc.
- 9 180,000-186,000 kc.
- 10 186,000-192,000 kc.
- 11 204,000-210,000 kc.
- 12 210,000-216,000 kc.
- 13 234,000-240,000 kc.
- 14 240,000-246,000 kc.
- 15 258,000-264,000 kc.
- 16 264,000-270,000 kc.
- 17 282,000-288,000 kc.
- 18 288,000-294,000 kc.

#### Group C

Any 6000 kc. band above 300,000 kc. excluding band 400,000 to 401,000 kc.

(b) No television broadcast station will be authorized to use more than one channel in Group A except for good cause shown. Both aural and visual carriers with side bands for modulation are authorized but no emission shall result outside the authorized channel.

(c) No person (including all persons under common control) shall, directly or indirectly, own, operate or control more than three television stations on channels in Group A, and no such person shall, directly or indirectly, own, operate or control on channels in Group A more than one television station which would serve in whole or substantial part the same service area as another station operated or controlled by such person. This paragraph (c) shall not apply to stations which do not transmit programs for public reception.

(d) Channels in Groups B and C may be assigned to television stations to serve auxiliary purposes such as television relay stations. No mobile or portable station will be licensed for the purpose of transmitting television programs to the public directly.\*†

§ 4.78 *Power.* The operating power of a television station shall be adequate for but not in excess of that necessary to carry forward the program of research and in no case in excess of the power specified in its license.\*†

§ 4.79 *Reports.* (a) A report shall be filed with each application for renewal of station license which shall include a statement of each of the following:

1. Number of hours operated.
2. Full data on research and experimentation conducted including the type of transmitting and studio equipment used and their mode of operation.
3. Data on expense of operation during the period covered.
4. Power employed, field intensity measurements and visual and aural observations and the types of instruments and receivers utilized to determine the service area of station and the efficiency of respective types of transmissions.
5. Estimated degree of public participation in reception, and the results of public observation as to the efficiency of types of transmission.
6. Conclusions, tentative and final.
7. Program for further developments in television broadcasting.
8. All developments and major changes in equipment.
9. Any other pertinent developments.

(b) Special or progress reports shall be submitted from time to time as the Commission shall direct.\*†

By the Commission.

[SEAL]

T. J. SLOWIE,  
Secretary.

[F. R. Doc. 40-2525; Filed, June 20, 1940; 11:39 a. m.]

#### PART 4—RULES GOVERNING BROADCAST SERVICES OTHER THAN STANDARD BROADCAST

##### REPEAL OF PRIOR RULES

The Commission on June 18, 1940, repealed §§ 4.71-4.79, inclusive, effective immediately.

By the Commission.

[SEAL]

T. J. SLOWIE,  
Secretary.

[F. R. Doc. 40-2526; Filed, June 20, 1940; 11:39 a. m.]

#### Notices

#### DEPARTMENT OF LABOR.

##### Wage and Hour Division.

#### NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued under Section 14 of the said Act and § 522.5 of Regulations Part 522, as amended, to the employers listed below effective June 21, 1940. These Certificates may be canceled in the manner provided for in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review of the action taken in accordance with the provisions of §§ 522.13 or 522.5 (b), whichever is applicable of the aforementioned Regulations.

The employment of learners under these Certificates is limited to the occupations, learning periods, and minimum wage rates specified in the Determination or Order for the Industry designated below opposite the employer's name and published in the FEDERAL REGISTER as here stated:

Regulations, Part 522, May 23, 1939 (4 F.R. 2088), and as amended October 12, 1939 (4 F.R. 4226).

Hosiery Order, August 24, 1939 (4 F.R. 3711).

Apparel Order, October 12, 1939 (4 F.R. 4225).

Knitted Wear Order, October 24, 1939 (4 F.R. 4351).

Textile Order, November 8, 1939 (4 F.R. 4531); as amended, April 27, 1940 (5 F.R. 1586).

Glove Order, February 20, 1940 (5 F.R. 714).

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE

M. Janowitch and Sons, Mahoney City, Pennsylvania; Apparel; Dresses & Blouses; 5 percent; October 24, 1940.

Luxuray Inc., Willet Street, Fort Plain, New York; Knitted Wear; Ladies' Underwear; 5 percent; October 24, 1940.



Buffalo Woven Label Works, Inc., 567 Washington Street, Buffalo, New York; Textile; Woven Labels; 3 learners; October 24, 1940.

Warlong Glove Manufacturing Company, Conover, North Carolina; Glove; Work Gloves; 5 percent; October 24, 1940.

Signed at Washington, D. C., this 20th day of June 1940.

GUSTAV PECK,  
Authorized Representative  
of the Administrator.

[F. R. Doc. 40-2527; Filed, June 20, 1940;  
11:40 a. m.]

#### NOTICE OF ISSUANCE OF A SPECIAL CERTIFICATE FOR THE EMPLOYMENT OF LEARNERS

Notice is hereby given that a Special Certificate authorizing the employment of learners at hourly wages lower than the minimum rate applicable under section 6 of the Fair Labor Standards Act of 1938 is issued pursuant to section 14 of the said Act and § 522.5 (b) of Regulations Part 522 (4 F.R. 2088), as amended (4 F.R. 4226), to the employer listed below effective June 21, 1940. This Certificate is issued upon his representations that experienced workers for the learner occupations are not available and that he is actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. This Certificate may be canceled in the manner provided for in § 522.5 (b) of the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of this Certificate may seek a review of the action taken in accordance with the provisions of § 522.5 (b). The employment of learners under this Certificate is limited to the terms and conditions as designated opposite the employer's name.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATIONS, EXPIRATION DATE

The Illinois Bedding & Mattress Company, 1319 South Blue Island Avenue, Chicago, Illinois; Bedding Manufacturing; Mattresses; 3 learners; 8 weeks for any one learner; 25¢ per hour; Mattress Filler; Mattress Maker; Tick Sewer; October 25, 1940.

Signed at Washington, D. C., this 20th day of June 1940.

GUSTAV PECK,  
Authorized Representative  
of the Administrator.

[F. R. Doc. 40-2528; Filed, June 20, 1940;  
11:40 a. m.]

#### NOTICE OF HEARING ON PROPOSED AMENDMENTS TO PART 541 OF REGULATIONS WITH RESPECT TO THE DEFINITION OF THE TERMS "EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL \* \* \* OUTSIDE SALESMAN" AS THEY AFFECT EMPLOYEES IN BANKING, BROKERAGE, INSURANCE, FINANCIAL AND RELATED INSTITUTIONS

Whereas, section 13 (a) (1) of the Fair Labor Standards Act provides that the provisions of section 6 and section 7 of the Act shall not apply to any employee "employed in a bona fide executive, administrative, professional \* \* \* capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Administrator);" and

Whereas, the Administrator of the Wage and Hour Division, on October 20, 1938, issued Title 29, Chapter V, Part 541, entitled Regulations Defining and Delimiting the Terms "Any Employee Employed in a Bona Fide Executive, Administrative, Professional, or Local Retailing Capacity, or in the Capacity of Outside Salesman" Pursuant to section 13 (a) (1) of the Fair Labor Standards Act of 1938 (52 Stat. 1060); and

Whereas applications have been filed pursuant to § 541.5 of the said regulations for amendment of §§ 541.1, 541.2, and 541.4 of the said regulations defining and delimiting the terms "executive, administrative, professional, \* \* \* (and) \* \* \* outside salesman," by the American Bankers Association and sundry other parties, with respect to Banking, Brokerage, Insurance, Financial and Related Institutions;

Now, therefore, notice is hereby given of a public hearing to be held pursuant to § 541.5 of the said regulations on July 9, 1940, at 10:00 A. M. at the Willard Hotel, 14th Street and Pennsylvania Avenue NW., Washington, D. C., before Harold Stein, the presiding officer hereby designated, at which interested parties will be heard on the following question:

What, if any, amendments should be made to §§ 541.1, 541.2 and 541.4 of regulations issued under section 13 (a) (1) of the Fair Labor Standards Act of 1938 defining and delimiting the terms "executive, administrative, professional, \* \* \* (and) \* \* \* outside salesman," with respect to Banking, Brokerage, Insurance, Financial and Related Institutions.

Any person interested in proposing or opposing any amendment to the regulations and wishing to be heard shall file not later than July 6, 1940, a notice of intention to appear, which shall contain the following information:

1. The name and address of the person appearing.

2. If such person is appearing in a representative capacity, the name and address of the person or persons he is representing.

3. The branch of the banking, brokerage, insurance, financial and related institutions in which he is interested.

4. Whether such person proposes to appear in support of or in opposition to any amendment of the regulations.

5. If he proposes to appear in support of an amendment, the terms of the suggested amendment.

6. The approximate length of time requested for his presentation.

Such notice may be mailed to the Administrator, Wage and Hour Division, United States Department of Labor, Washington, D. C. All notices including terms of proposed amendments will be placed on file upon receipt in Room 5109, Department of Labor Building, Washington, D. C., where they may be examined by any interested person.

Written statements may be filed in lieu of personal appearances, if filed not later than July 6, 1940.

Testimony offered in written statements or in personal appearances by witnesses in support of proposed amendments will have its usefulness increased if it includes as much of the following information as possible:

(a) The number of individuals or firms whom the witnesses represent. The number of employees in such firms.

(b) The number or percentage of persons in these firms exempt under present definitions.

(c) The number, or percentage, of persons in these firms not now exempt, whom it is desired to exempt by the proposed definition, together with their titles and places in an organization chart.

(d) The duties of such persons, with a rough percentage breakdown showing various types of work performed; what parts of the present definition they do not meet; also reasons why they should properly be classified as employed in an "executive, administrative," or "professional" capacity or in the capacity of an "outside salesman."

(e) Normal low, high and average salary paid the employees listed in (b) and (c) above.

(f) Discussion of the ability of the proposed language to exempt only the employees listed in (c) above and not other employees as well.

As used in this notice of hearing "banking, brokerage, insurance, financial and related institutions" shall include: Banks of all kinds; trust companies; commercial paper houses; agricultural, livestock, and production credit associations; finance, loan and mortgage companies; cotton factors; security, commodity, insurance, and foreign ex-



change brokers and dealers; investment trusts; oil and gas royalty companies; insurance companies; clearing house associations; stock and commodity exchanges; and related institutions.

Signed at Washington, D. C., this 18th day of June 1940.

BAIRD SNYDER,  
Acting Administrator.

[F. R. Doc. 40-2530; Filed, June 20, 1940;  
11:51 a. m.]

**NOTICE OF HEARING ON PROPOSED AMENDMENTS TO PART 541 OF REGULATIONS WITH RESPECT TO THE DEFINITION OF THE TERMS "EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL \* \* \* OUTSIDE SALESMAN" AS THEY AFFECT EMPLOYEES IN THE PUBLICATION, COMMUNICATION, PUBLIC UTILITY, TRANSPORTATION, AND MISCELLANEOUS INDUSTRIES**

Whereas Section 13 (a) (1) of the Fair Labor Standards Act provides that the provisions of section 6 and section 7 of the Act shall not apply to any employee "employed in a bona fide executive, administrative, professional \* \* \* capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Administrator);" and

Whereas the Administrator of the Wage and Hour Division, on October 20, 1938, issued Title 29, Chapter V, Part 541, entitled Regulations Defining and Delimiting the Terms "Any Employee Employed in a Bona Fide Executive, Administrative, Professional, or Local Retailing Capacity, or in the Capacity of Outside Salesman" Pursuant to Section 13 (a) (1) of the Fair Labor Standards Act of 1938 (52 Stat. 1060); and

Whereas, applications have been filed pursuant to § 541.5 of the said regulations for amendment of §§ 541.1, 541.2, and 541.4 of the said regulations defining and delimiting the terms "executive, administrative, professional \* \* \* (and) \* \* \* outside salesman," by the United States Independent Telephone Association, the Southern States Industrial Council and sundry other parties, with respect to the Publication, Communication, Public Utility, Transportation, and Miscellaneous Industries.

Now, therefore, notice is hereby given of a public hearing to be held pursuant to § 541.5 of the said regulations on July 25, 1940, at 10:00 A. M. at the Willard Hotel, 14th Street and Pennsylvania Avenue NW., Washington, D. C., before Harold Stein, the presiding officer hereby designated, at which interested parties will be heard on the following question:

What, if any, amendments should be made to §§ 541.1, 541.2, and 541.4 of regulations issued under section 13 (a) (1) of the Fair Labor Standards Act of 1938 defining and delimiting the terms "executive, administrative, professional

\* \* \* (and) \* \* \* outside salesman," with respect to the Publication, Communication, Public Utility, Transportation, and Miscellaneous Industries.

Any person interested in proposing or opposing any amendment to the regulations and wishing to be heard shall file not later than July 23, 1940, a notice of intention to appear, which shall contain the following information:

1. The name and address of the person appearing.
2. If such person is appearing in a representative capacity, the name and address of the person or persons he is representing.
3. The branch of the publication, communication, public utility, transportation, and miscellaneous industries in which he is interested.
4. Whether such person proposes to appear in support of or in opposition to any amendment of the regulations.
5. If he proposes to appear in support of an amendment, the terms of the suggested amendment.
6. The approximate length of time requested for his presentation.

Such notice may be mailed to the Administrator, Wage and Hour Division, United States Department of Labor, Washington, D. C. All notices including terms of proposed amendments will be placed on file upon receipt in Room 5109, Department of Labor Building, Washington, D. C., where they may be examined by any interested person.

Written statements may be filed in lieu of personal appearances, if filed not later than July 23, 1940.

Testimony offered in written statements or in personal appearances by witnesses in support of proposed amendments will have its usefulness increased if it includes as much of the following information as possible:

- (a) The number of individuals or firms whom the witnesses represent. The number of employees in such firms.
- (b) The number or percentage of persons in these firms exempt under present definitions.
- (c) The number, or percentage, of persons in these firms not now exempt, whom it is desired to exempt by the proposed definition, together with their titles and places in an organization chart.
- (d) The duties of such persons, with a rough percentage breakdown showing various types of work performed; what parts of the present definition they do not meet; also reasons why they should properly be classified as employed in an "executive, administrative," or "professional" capacity or in the capacity of an "outside salesman."
- (e) Normal low, high and average salary paid the employees listed in (b) and (c) above.
- (f) Discussion of the ability of the proposed language to exempt only the

employees listed in (c) above and not other employees as well.

As used in this notice of hearing "publication, communication, public utility, transportation, and miscellaneous industries" shall include publication of books, magazines and newspapers; radio and television broadcasting; telegraph, telephone, gas, electric, and water service; transportation; moving picture production; construction; and other industries not represented at previous hearings.

Signed at Washington, D. C., this 20th day of June 1940.

PHILIP B. FLEMING,  
Administrator.

[F. R. Doc. 40-2531; Filed, June 20, 1940;  
11:51 a. m.]

**NOTICE OF HEARING FOR RECONSIDERATION OF THE OPINION, FINDINGS AND ORDER RE EMPLOYMENT OF LEARNERS IN THE APPAREL INDUSTRY AT WAGES LOWER THAN THE MINIMUM WAGE APPLICABLE UNDER SECTION 6 OF THE FAIR LABOR STANDARDS ACT OF 1938, AND PROPOSED REGULATIONS**

Whereas the Administrator of the Wage and Hour Division caused to be published in the FEDERAL REGISTER on October 12, 1939, a notice which set forth in full the Administrator's Order Re Employment of Learners in the Apparel Industry at Wages Lower Than the Minimum Wage Applicable Under Section 6 of the Fair Labor Standards Act of 1938 which had been signed by him; and

Whereas, in that Opinion, Findings and Order the Administrator stated that those findings "did not foreclose further proceedings under a higher minimum than thirty cents an hour"; and

Whereas, Wage Orders for the Apparel Industry recommended by Industry Committee No. 2 have been approved by the Administrator to become effective July 15, 1940, establishing minimum rates for various branches of the Apparel Industry higher than 30 cents per hour; and

Whereas experience under the existing Determination and Order for the Industry under the 30-cent minimum wage rate and the probable effect of higher minimum rates has been considered by the Division; and

Whereas additional information has been presented in letters, applications of numerous employers, in hearings or individual applications, and by briefs filed with the Division and in informal conferences attended by representatives of trade associations and Unions and representatives of the Administrator,

Now, therefore, notice is hereby given of a public hearing to commence at 10 A. M. on Thursday, June 27, 1940, at Room 3229, Department of Labor, Washington, D. C., before Merle D. Vincent, Director of the Hearings Branch, hereby



duly authorized to conduct said hearing as Presiding Officer on the following proposed regulations for the employment of learners in the Apparel Industry:

1. Special Certificates permitting the employment as learners at subminimum rates in the Apparel Industry of persons, (except those employed in the cutting, shipping and office departments) engaged in machine operations, pressing and hand sewing, shall be issued upon the following terms and conditions to any plant making application therefor on forms provided by the Wage and Hour Division:

(a) Learners employed under the certificate for labor turnover shall not exceed at any one time 5 per cent of the total number of workers in the plant engaged in the occupations of machine operator, presser and hand sewer in the Apparel Industry (excepting that no learners may be employed in the cutting, shipping and office departments) provided, however, that employment of as many as five learners may be authorized in any certificate.

(b) No learner shall be employed under the certificate after 320 hours experience in the occupations of machine operator, presser and hand sewer.

(c) Learners employed under the certificate shall be paid not less than 25 cents an hour in those branches of the Apparel Industry for which the Administrator has fixed a minimum wage of 32½ cents an hour; not less than 27½ cents an hour in those branches of the Apparel Industry for which the Administrator has fixed a minimum wage of 35 cents or 37½ cents an hour, and not less than 30 cents an hour in those branches of the Apparel Industry for which the Administrator has fixed a minimum wage of 40 cents an hour; and in plants where experienced operators are paid on a piece work rate learners shall be paid at least the same piece work rate and shall receive earnings paid on this rate if in excess of the subminimum rate for learners above stated.

(d) Certificates for labor turnover shall authorize the employment of learners at subminimum rates where skilled workers are not available in the area from which the employer draws his supply of labor: *Provided*, That no certificate for labor turnover shall be issued where the employment of learners would tend to lower labor standards or discriminate against experienced workers; or where special investigation of the local labor market shows that an adequate supply of experienced workers in the learner occupations are available. Investigations of local labor market conditions when necessary shall be made with the cooperation of the Public Employment Offices, employers' associations, trade unions and by field investigations of the Wage and Hour Division.

2. Special Certificates permitting the employment of learners at subminimum rates in excess of the turnover percentage as stated herein shall be issued to

new or expanding plants to the extent of actual needs, which shall be stated in the application: *Provided however*, That such certificates shall not be issued when:

(a) Experienced workers are available to the employer.

(b) The issue of a certificate in excess of the percentage allowable for labor turnover would tend to create unfair competition in the Industry or depress labor standards.

3. Revocation of special learner certificates:

(a) Any special certificate issued pursuant to this Determination and Order may be cancelled at any time for cause.

(b) Any special certificate issued pursuant to this Order shall be cancelled as of the date of issue if it is found that the certificate was obtained by misrepresentation.

(c) Any special certificate issued pursuant to this Order may be cancelled as of the date of violation if it is found that any of its terms have been violated.

4. Only learners may be employed at a subminimum wage under certificates issued.

In this Order, the term "learner" means:

(a) A person employed as a machine operator who has not been so employed within the previous three years in the Apparel Industry for more than 320 hours.

(b) A person employed as a hand sewer who has not been so employed within the previous three years in the Apparel Industry for more than 320 hours.

(c) A person employed as a presser who has not been so employed within the previous three years in the Apparel Industry for more than 320 hours.

5. An experienced worker for the purpose of this Order is hereby defined as any person who has been employed in the same occupation during the previous three years for more than 320 hours as a machine operator, hand sewer or presser.

6. The definition of the term "Apparel Industry", for the purpose of this hearing, shall be the same as that used in the Administrator's Wage Orders for the industry as published in the FEDERAL REGISTER, except that for the purpose of this hearing, the glove and artificial flower branches, for which separate learner determinations are or will be made, are not included.

Any interested party wishing to appear at this hearing may do so by filing notice of intention and approximate time required with Merle D. Vincent, Director of the Hearings Branch, Wage and Hour Division, U. S. Department of Labor, Washington, D. C., prior to June 26, 1940, or, if unable to appear, may file briefs and arguments pertaining to this proposed Order by July 8, 1940.

On the close of the hearing the Presiding Officer shall file a complete record of

the proceedings with, and shall make findings of fact and recommendations to, the Administrator.

Signed at Washington, D. C., this 20th day of June 1940.

PHILIP B. FLEMING,  
Administrator.

[F. R. Doc. 40-2532; Filed, June 20, 1940; 11:52 a. m.]

REVISED NOTICE OF HEARING IN THE MATTER OF APPLICATION FOR THE EXEMPTION OF THE HANDLING, PACKING, STORING, PREPARING IN THEIR RAW OR NATURAL STATE OR CANNING OF PERISHABLE OR SEASONABLE FRESH FRUITS OR VEGETABLES FROM THE MAXIMUM HOURS PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938 AS INDUSTRIES OF A SEASONAL NATURE

Whereas, on the 14th day of June, 1940, upon applications filed by the Northwest Cannery Association, the Agricultural Producers Labor Committee, the Lakeland Highlands Canning Company, the West Virginia Horticultural Society and sundry other parties, a Notice of Hearing was duly issued by Philip B. Fleming, Administrator, Wage and Hour Division, United States Department of Labor, to consider whether the handling, packing, storing, preparing in their raw or natural state or canning of perishable or seasonal fresh fruits or vegetables are industries of a seasonal nature within the meaning of Section 7 (b) (3) of the Act and Part 526 as amended of the Regulations issued thereunder, and

Whereas it is now deemed advisable at the above public hearing to include consideration of both the handling, packing, storing, preparing in their raw or natural state or canning of perishable or seasonal fresh fruits or vegetables, and also of the first processing of such perishable or seasonal fresh fruits or vegetables.

Now, therefore, the above Notice of Hearing, published in the FEDERAL REGISTER on June 14, 1940, is hereby amended, and notice is hereby given that at the aforesaid public hearing to be held at the Raleigh Hotel, Washington, D. C., to commence at 10:00 A. M. on July 1, 1940, Merle D. Vincent, an authorized representative of the Administrator, shall take testimony, hear argument and determine:

Whether the handling, packing, storing, preparing in their raw or natural state, canning or first processing of perishable or seasonal fresh fruits and vegetables are industries of a seasonal nature within the meaning of section 7 (b) (3) of the Act and Part 526 as amended of the Regulations issued thereunder.

Written statements will be considered in lieu of personal appearance provided that such statements are received by the Wage and Hour Division, Department of Labor, Washington, D. C., on or before 10:00 A. M. July 1, 1940. Such statements should record, in addition to evi-



dence on all relevant factors, the number of establishments involved and the number of workers for which exemption is claimed.

Signed at Washington, D. C., this 20th day of June 1940.

PHILIP B. FLEMING,  
Administrator.

[F. R. Doc. 40-2533; Filed, June 20, 1940;  
11:52 a. m.]

#### FEDERAL TRADE COMMISSION.

[Docket No. 4001]

IN THE MATTER OF DAVIDSON ENAMEL  
COMPANY, A CORPORATION

#### ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 19th day of June, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41),

*It is ordered*, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Wednesday, June 26, 1940, at ten o'clock in the forenoon of that day (eastern standard time) in Room 39, Main Post Office Building, Thirteenth and Jefferson Streets, Toledo, Ohio.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 40-2520; Filed, June 20, 1940;  
9:08 a. m.]

[Docket No. 4098]

IN THE MATTER OF STIEFEL MEDICINAL  
SOAP COMPANY, A CORPORATION, AND  
AUGUST STIEFEL, AN INDIVIDUAL, AND  
LILL STIEFEL, TRADING AS STIEFEL MEDICINAL SOAP CO.

#### ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 19th day of June, A. D. 1940.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal

Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

*It is ordered*, That Lewis C. Russell, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law:

*It is further ordered*, That the taking of testimony in this proceeding begin on Monday, June 24, 1940, at nine o'clock in the forenoon of that day (eastern standard time) in the St. George Hotel, Brooklyn, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 40-2519; Filed, June 20, 1940;  
9:08 a. m.]

#### SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-49]

IN THE MATTER OF WEST COAST POWER  
COMPANY

#### ORDER REOPENING RECORD, ETC.

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 18th day of June, A. D. 1940.

The Commission, by order entered in the above matter on the 10th day of June 1940, having reserved jurisdiction regarding the fee proposed to be paid to Laurence M. Marks & Co. for aiding in the negotiation and sale of \$1,000,000 principal amount of First Mortgage Bonds Series A 4½%, due 1965, of West Coast Power Company; and

The Commission having been advised by said Laurence M. Marks & Co. by letter dated June 14, 1940 in response to a previous letter from this Commission dated June 10, 1940, that said Laurence M. Marks & Co. did not desire to request further hearings or oral argument with respect to the amount of said fee in the event that the Commission released jurisdiction as to a payment to the extent of \$5,000 thereof, plus \$1,200 for out-of-pocket expenses; and

The Commission being of the opinion, after further consideration of this matter and on the basis of the record herein, that the payment to said Laurence M. Marks & Co. for its services of a fee of \$5,000, plus \$1,200 for out-of-pocket expenses, is not unreasonable, and that jurisdiction as to payments not in excess of such amounts should be released;

*It is ordered*, That the record in the above matter be and hereby is re-opened for the purpose of incorporating therein

said letters of June 10, 1940, and June 14, 1940, and said documents be and are hereby made a part of said record; and

*It is further ordered*, That jurisdiction be and it is hereby released with respect to the payment to said Laurence M. Marks & Co. of the sum of \$5,000, plus \$1,200 for out-of-pocket expenses, said payments to be in full satisfaction of any claim for services rendered by said Laurence M. Marks & Co.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-2534; Filed, June 20, 1940;  
11:54 a. m.]

[File No. 70-54]

IN THE MATTER OF NORTHERN INDIANA PUBLIC SERVICE COMPANY AND NORTHERN INDIANA POWER COMPANY

#### ORDER APPROVING JOINT APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of June, A. D. 1940

Northern Indiana Public Service Company and Northern Indiana Power Company having filed a joint application, pursuant to section 12 (f) of the Public Utility Holding Company Act of 1935 and Rule U-12F-1 adopted thereunder, for the approval of an exchange of electric and gas utility assets pursuant to the terms and conditions contained in an agreement dated December 28, 1939, entered into by the parties and for the approval of the terms and conditions of a joint pole agreement entered into by the parties on December 28, 1939; and

A public hearing having been held on said joint application after appropriate notice, the Commission having considered the record in the matter, and having made and filed its findings and opinion herein:

*It is ordered*, That the said joint application is approved, subject to the following conditions:

(1) That transactions shall be effected in substantial compliance with the terms and conditions set forth in the said joint application;

(2) That the exchange of properties as set forth in the said joint application be consummated within sixty (60) days after the date of this order; and

(3) That within ten (10) days after the exchange of the said properties applicants shall file with this Commission a certificate of notification showing that such exchange has been effected in substantial compliance with the terms and conditions set forth in the said joint application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

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11:54 a. m.]